

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DONALD H. AYERS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**Civ. No. 2:13-cv-892
Crim. No. 2:06-cr-129(3)
Judge Marbley
Magistrate Judge King**

ORDER

This is an action under 28 U.S.C. § 2255 to vacate Petitioner's convictions and sentences on charges of securities fraud, conspiracy to commit securities fraud and wire fraud, and conspiracy to commit money laundering. On July 14, 2015, the Magistrate Judge recommended that Respondent's *Answer and Motion to Dismiss*, ECF No. 1282, be granted and that this action be dismissed. *Report and Recommendation*, ECF No. 1345. Petitioner objects to that recommendation. *Objection*, ECF No. 1349. Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, this Court has conducted a *de novo* review. For the reasons that follow, Petitioner's *Objection*, ECF No. 1349, is **OVERRULED**. The *Report and Recommendation*, ECF No. 1345, is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.


Petitioner, who is proceeding without the assistance of counsel, asks that the Court liberally construe his pleadings pursuant to *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (Pleadings of *pro se* prisoners will be held to a less stringent standard). The Court does so here.

Petitioner claims that he was denied the effective assistance of counsel because his attorney failed to disclose a plea opportunity, failed to present an adequate defense based on good faith reliance, failed to investigate the defense expert prior to calling him as a defense witness, failed to investigate the government's loss figures, and failed to "preserve new rule." Petitioner also asserts that he was denied a fair trial because of prosecutorial misconduct and alleges that his sentence was unconstitutionally imposed. He also argues that he is actually innocent of the charges against him. The Magistrate Judge concluded that Petitioner's claims are without merit; Petitioner objects to that conclusion and reasserts each of his claims.

Upon careful consideration of the entire record, and for the reasons stated in the *Report and Recommendation*, this Court is not persuaded that Petitioner has established any basis for habeas corpus relief. Petitioner's *Objection*, ECF No. 1349, is therefore **OVERRULED**. The *Report and Recommendation*, ECF No. 1345, is **ADOPTED** and **AFFIRMED**. Respondent's *Answer and Motion to Dismiss*, ECF No. 1282, is **GRANTED**.

This action is hereby **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.


ALGENON L. MARBLEY
United States District Judge